

A-851-802
A-588-851
A-485-805
A-791-808
Sunset Reviews
AD/CVD Operations O7/DA
Public Document

DATE: August 30, 2005

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Carbon and Alloy
Seamless Standard, Line, and Pressure Pipe (Under 4 ½ inches)
from the Czech Republic, Japan, Romania, and South Africa; Final
Results

Summary

We have analyzed the substantive responses of the domestic interested parties in the sunset reviews of the antidumping duty orders covering certain carbon and alloy seamless standard, line, and pressure pipe (under 4 ½ inches) (seamless pipe) from the Czech Republic, Japan, Romania, and South Africa.¹ We recommend that you approve the positions we developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

History of the Orders

The Department of Commerce (the Department) published its final affirmative determinations of sales at less than fair value (LTFV) in the Federal Register with respect to imports of seamless pipe from the Czech Republic, Japan, Romania, and South Africa at the following rates:²

¹ No responses were received from the respondent interested parties.

² See Notice of Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from the Czech Republic, 65 FR 49539 (August 14, 2000); Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure from Japan and the Republic of South Africa, 65 FR 39360 (June 26, 2000); and Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania, 65 FR 48963 (August 10, 2000).

Czech Republic

Nova Hut, A.S.	39.93
All Other Czech Manufacturers and Exporters	32.26

Japan

Nippon Steel Corporation	106.07
Kawasaki Steel Corporation	106.07
Sumitomo Metal Industries, Ltd.	106.07
All Other Japanese Manufacturers and Exporters	70.43

Romania

Metal Business International S.R.L. ³	11.08
Sota Communication Company ⁴	15.15
Romania-wide Rate	13.06

South Africa

Iscor Ltd.	43.51
All Other South African Manufacturers and Exporters	40.17

Czech Republic

After the antidumping duty order was entered on August 14, 2000, no subsequent reviews were requested or conducted with respect to seamless pipe from the Czech Republic.

Japan

After the antidumping duty order was entered on June 26, 2000, we received a request for review in the second administrative review period (*i.e.*, June 1, 2001, through May 31, 2002) from United States Steel Corporation (U.S. Steel), which was initiated on July 24, 2002.⁵ On November 22, 2002, U.S. Steel withdrew its request and the review was rescinded.⁶ No subsequent reviews were requested or conducted.

Romania

The antidumping duty order was entered on August 10, 2000. The first administrative review covered the period February 4, 2000, through July 31, 2001. Romania was treated as a non-market economy (NME) country during this review, and Silcotub was the only Romanian producer or exporter of subject merchandise to be reviewed. The Department calculated a

³ S.C. Petrotub S.A. (Petrotub) was the producer of the seamless pipe that Metal Business International S.R.L. (MBI) exported. Petrotub received the rate of 11.08 percent when Romania graduated to a market economy country.

⁴ S.C. Silcotub S.A. (Silcotub) was the producer of the seamless pipe that Sota Communication Company (Sota) exported.

⁵ Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 48435 (July 24, 2002).

⁶ See Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan, 67 FR 70403 (November 22, 2002).

de minimis weighted-average dumping margin of 0.04 percent for Silcotub during the first administrative review.⁷

The second administrative review covered the period August 1, 2001, through July 31, 2002, and Silcotub again was the producer/exporter reviewed. The Department continued to treat Romania as an NME country during this review. For the second administrative review, the Department determined a zero margin for Silcotub.⁸

The Department designated Romania a market economy (ME) country on January 1, 2003. As a result, the Department divided the period of review for the third administrative review into an NME (i.e., August 1, 2002, through December 31, 2002) and an ME portion (i.e., January 1, 2003, through July 31, 2003). Silcotub, the only producer or exporter reviewed during the third administrative review, had a margin of 1.35 percent for the entire period of review.⁹

Silcotub was again the only producer or exporter reviewed in the fourth administrative review (i.e., August 1, 2003, through July 31, 2004). On March 4, 2005, Silcotub informed the Department that it was withdrawing its participation in the fourth administrative review. For this review, the Department determined a margin of 15.15 percent for Silcotub, based on adverse facts available.¹⁰

South Africa

The antidumping duty order was entered on June 26, 2000. No subsequent reviews were requested or conducted.

Background

On May 2, 2005, the Department initiated sunset reviews of the antidumping duty orders on seamless pipe from the Czech Republic, Japan, Romania, and South Africa pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year ("Sunset") Reviews, 70 FR 22632 (May 2, 2005). The Department invited parties to comment. The Department received notices of intent to participate from two domestic interested parties, U.S. Steel and Koppel Steel Corporation (Koppel Steel) (collectively, domestic interested parties) within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. U.S. Steel and Koppel Steel were petitioners in the original investigations. The Department did not receive substantive responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

⁷ See Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Romania: Final Results of Antidumping Duty Administrative Review, 68 FR 12672 (March 17, 2003).

⁸ See Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Romania: Final Results of Antidumping Duty Administrative Review, 68 FR 54418 (September 17, 2003).

⁹ See Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania, 70 FR 14648 (March 23, 2005).

¹⁰ See Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania: Final Results of Antidumping Duty Administrative Review and Final Determination Not to Revoke Order in Part, 70 FR 41206 (July 18, 2005).

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of these antidumping duty orders would likely lead to the continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the periods after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties believe that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the Czech, Japanese, Romanian, and South African manufacturers, producers, and exporters of the subject merchandise due to continued or resumed dumping. See Substantive Response of Domestic Interested Parties for the Czech Republic, June 1, 2005, (Substantive Response for the Czech Republic); Substantive Response of Domestic Interested Parties for Japan, June 1, 2005, (Substantive Response for Japan); Substantive Response of Domestic Interested Parties for Romania, June 1, 2005 (Substantive Response for Romania); and Substantive Response of Domestic Interested Parties for South Africa, June 1, 2005 (Substantive Response for South Africa). The domestic interested parties contend that the dumping margins remain at above de minimis levels for all manufacturers, producers, and exporters of the subject merchandise. See Substantive Response for the Czech Republic at 10; Substantive Response for Japan at 11; Substantive Response for Romania at 14; and Substantive Response for South Africa at 12.

Czech Republic

Domestic interested parties assert that import volumes plummeted following the initiation of the investigation in July 1999. Specifically, domestic interested parties point out that import volumes fell to zero after issuance of the order in August 2000. Domestic interested parties argue that even when imports resumed in the second through fourth periods of review, they remained at levels well below pre-initiation volumes. According to domestic interested parties, imports following issuance of the order ranged from only zero percent to 12 percent of the pre-initiation level. See Substantive Response for the Czech Republic at 13-14. To provide evidence for its claim of decreasing import volumes, domestic interested parties provided import volumes of the subject merchandise under the Harmonized Tariff Schedule subheadings 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7303.59.80.10, 7304.59.80.15, 7304.10.10.20, and 7304.10.50.20 for the periods 1989 through 2004. See id. at 13 (based on U.S. Department of Commerce, Bureau of the Census, Imports for Consumption, IM-145).

As to dumping margins, domestic interested parties note that no administrative reviews have been conducted since the order was issued in this case. Citing Grain-Oriented Electrical Steel from Italy and Japan; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders, 65 FR 41433 (July 5, 2000) and accompanying Issues and Decision Memorandum at Comment 1, and Uranium from Ukraine; Final Results of Expedited Sunset Review of

Antidumping Duty Order, 65 FR 11552 (March 3, 2000) and accompanying Issues and Decision Memorandum at Comment 2, domestic interested parties state that, as a result, the dumping margins determined in the investigation continue to exist for all shipments of subject merchandise from the Czech Republic. Citing the Department's Policy Bulletin, quoting the Statement of Administrative Action (SAA) at 889 and 890, domestic interested parties further state that the continued existence of above de minimis margins is a sufficient basis for the Department to conclude that Czech producers are likely to continue to engage in dumping in the absence of an antidumping order. See 19 U.S.C. section 1675 (c)(1) and Policies Regarding the Conduct of Five Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 18871, 18872 (April 16, 1998) (Policy Bulletin).

Japan

Domestic interested parties make similar arguments regarding the likely effects of revocation of the order on seamless pipe from Japan. Domestic interested parties argue that Japanese shipments of seamless pipe have dropped dramatically following the initiation of the investigation, and that even assuming, arguendo, that dumping had ceased, the steep drop in subject imports warrants the continuation of the order. According to domestic interested parties, imports from Japan, following issuance of the order, ranged from only two percent to six percent of pre-initiation levels. See Substantive Response for Japan at 15. The domestic interested parties also submitted a table of import volumes of the subject merchandise from Japan for the periods 1989 through 2004. Id. at 14. Domestic interested parties argue that since the only administrative review to have been initiated in this case was rescinded, the dumping margins in the investigation continue to exist for all shipments of the subject merchandise from Japan. Id. at 11, citing Grain-Oriented Electrical Steel from Italy and Japan; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders, 65 FR 41433 (July 5, 2000) and accompanying Issues and Decision Memorandum at Comment 1, and Uranium from Ukraine; Final Results of Expedited Sunset Review of Antidumping Duty Order, 65 FR 11552 (March 3, 2000) and accompanying Issues and Decision Memorandum at Comment 2.

Romania

Only one respondent, Silcotub, has had administrative reviews since the issuance of the order. According to domestic interested parties, Silcotub has dumped at increasing margins since Romania gained ME status. See Substantive Response for Romania at 12. Domestic interested parties argue that the results of the third and fourth reviews make clear that Silcotub has not been able to export to the United States without dumping since Romania's graduation to ME status, and that the continued existence of above de minimis margins is a sufficient basis for the Department to conclude that Romanian producers are likely to continue to engage in dumping in the absence of an antidumping order.

Domestic interested parties also argue that Romanian shipments of seamless pipe declined significantly following the initiation of the investigation. Domestic interested parties state that imports following issuance of the order ranged from 34 percent to 71 percent of the pre-initiation level. See id. at 18 for domestic interested parties' table of U.S. imports of seamless pipe from Romania. Therefore, according to domestic interested parties, the steep drop in subject imports warrants the continuation of the order pursuant to subparagraph (c) of the Policy Bulletin (quoting the SAA at 889).

South Africa

Citing the Policy Bulletin (quoting the SAA at 890), domestic interested parties state that the Department will determine that revocation of an antidumping order will lead to resumption of dumping where, following issuance of the order, imports of the subject merchandise ceased. Domestic interested parties refer to their table of imports of seamless pipe from South Africa for the periods 1998 through 2004 (see Substantive Response for South Africa at 11), and point out that South African shipments of seamless pipe dropped to zero after the imposition of the order. Domestic parties argue that this complete cessation of imports warrants the continuation of the order pursuant to subparagraph (b) of the Policy Bulletin (quoting the SAA at 889).

Domestic interested parties add that the dumping margins determined in the investigation (i.e., 43.51 percent for Iscor and 40.17 percent for all others) are the margins currently in effect. According to domestic interested parties, referring to the Policy Bulletin, the continued existence of above de minimis margins is a sufficient basis for the Department to conclude that dumping is likely to continue or recur in the absence of an antidumping order.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the SAA, H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.

Deposit rates above de minimis remain in effect for exports of seamless pipe from the Czech Republic, Japan, Romania, and South Africa. For the Czech Republic, Japan, and South Africa, the investigation margins, in addition to being the margin based on a time period for which the orders were not yet in place, are the only margins we can examine because the parties did not request a review of their rates. We infer from the fact that respondents have not requested an administrative review that dumping continues -- if dumping had ceased, it is likely they would have requested an administrative review.

The Department also analyzed and considered the volume of imports of the subject merchandise for two years before the issuance of the orders through 2004, the last full year of available statistics, for each country. See Memorandum to The File from John Drury and Dena Aliadinov, Case Analysts, through Abdelali Elouaradia, Program Manager, regarding the Import Volumes for the Expedited Sunset Reviews of the Antidumping Duty Orders on Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4 ½ inches) from the Czech Republic, Japan, Romania, and South Africa; Final Results, dated August 30, 2005 (Import Volumes Memorandum). We note that import volumes continue to be well below pre-initiation levels for the Czech Republic, Japan, Romania, and South Africa.

Czech Republic: Using statistics provided by the ITC DataWeb (see Import Volumes Memorandum, dated August 30, 2005), the Department finds that imports of seamless pipe from the Czech Republic have decreased from the pre-initiation level of 6,543,417 kilograms (kgs.) in 1998 to only 782 kgs. in 2004. Given that dumping continues at above de minimis levels,

and imports are below the pre-initiation level, the Department determines that dumping is likely to continue or recur if the order were revoked.

Japan: Using statistics provided by the ITC DataWeb (see Import Volumes Memorandum, dated August 30, 2005), the Department finds that imports of seamless pipe from Japan have steadily decreased from the pre-initiation level of 56,247,830 kgs. in 1998 to 10,428,879 kgs. in 2004. Given that dumping continues at above de minimis levels, and imports are below the pre-initiation level, the Department determines that dumping is likely to continue or recur if the order were revoked.

Romania: As cited above, the Department has conducted four reviews of one Romanian exporter/producer, Silcotub, since the issuance of the order, and has found that dumping continued at levels above de minimis for Silcotub, with the exception of the first and second administrative reviews. Since the Department has not conducted reviews for the other Romanian exporters, their rates remain above de minimis (11.08 percent for MBI, 15.15 percent for Sota, and 13.06 percent for the Romania-wide rate). Using statistics provided by the ITC DataWeb (see Import Volumes Memorandum, dated August 30, 2005), the Department finds that imports of seamless pipe from Romania have remained below the pre-initiation level of 34,655,036 kgs. in 1998, with a recent level of 20,620,885 kgs. in 2004. Additionally, given that dumping continues at above de minimis levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

South Africa: Using statistics provided by the ITC DataWeb (see Import Volumes Memorandum, dated August 30, 2005), the Department finds that imports of seamless pipe from South Africa ceased from 2001 through 2003. While imports of South African seamless pipe were 15,865 in 2004, this volume is significantly lower than the pre-initiation level (i.e., 9,454,555 kgs. in 1998). Since the deposit rates remain above de minimis and imports are below pre-initiation levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

In sum, on the basis of information provided by domestic interested parties, information on the record, and the lack of information provided by the respondent parties, we continue to find that it is likely that if the antidumping duty orders for the Czech Republic, Japan, Romania, and South Africa were revoked, dumping would continue or recur.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

Czech Republic

Domestic interested parties assert that in accordance with section 752(c)(3) of the Act, the Department should provide the ITC with the rates from the original investigation: 39.93 percent for Nova Hut and 32.26 percent for “all other” Czech exporters of seamless pipe. See Substantive Response for the Czech Republic at 14.

Japan

Domestic interested parties state that the only dumping margins that have been determined by the Department are 106.07 percent for NSC, KSC, and SMI, and 70.43 percent for “all other” Japanese exporters of seamless pipe. See Substantive Response for Japan at 15. Domestic interested parties add that the Department should report these margins to the ITC as the margins likely to prevail if the antidumping duty order were revoked.

Romania

Domestic interested parties assert that the Policy Bulletin (quoting the SAA at 890) states that the Department normally is to select a margin “from the investigation, because that is the only calculated rate that reflects the behavior of exporters. . .without the discipline of an order or suspension agreement in place.” Domestic interested parties further assert that the use of recently calculated dumping margins are not applicable in this case because 1) dumping margins did not increase after the issuance of the order, and 2) dumping margins have not declined over the life of the order while imports remained steady or increased. See Policy Bulletin (quoting SAA at 889-890). Therefore, domestic interested parties conclude that the Department should report the margins from the investigation to the ITC as the likely margins if the antidumping duty order were revoked.

South Africa

Domestic interested parties state that the Department should report the only margins that have been determined for South Africa (i.e., 43.51 percent for Iscor and 40.17 percent for all others) to the ITC as the likely margins if the antidumping duty order were revoked.

Department’s Position

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department normally will select a margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “all others” rate from the investigation. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

The Department must determine the appropriate rates to report to the ITC for seamless pipe from the Czech Republic, Japan, and South Africa. In the final determination of the investigation of seamless pipe from the Czech Republic, the Department found dumping margins of 39.93 percent for Nova Hut and 32.26 percent for “all others.” In the final determination of the investigation of seamless pipe from Japan, the Department found dumping margins of 106.07 percent for NSC, KSC, and SMI, and 70.43 percent for “all others.” In the final determination of the investigation of seamless pipe from South Africa, the Department found dumping margins of 43.51 percent for Iscor and 40.17 percent for “all others.” The Department finds that it is appropriate to provide the ITC with the rates from the investigation for the Czech Republic, Japan, and South Africa because these are the only calculated rates that reflect the behavior of

manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC these same margins as listed in the Final Results of Reviews section of this memorandum.

With respect to seamless pipe from Romania, administrative reviews have resulted in margins of 0.04 percent, zero percent, 1.35 percent, and 15.15 percent. The Department may provide the ITC with a more recently assigned margin for a particular company, in this case Silcotub, where dumping margins increased for that company, even if the increase was a result of the application of best information or facts available. For Silcotub, the Department determines that it is appropriate to report to the ITC the rate from the most recently completed review.

For the other Romanian companies that were subject to the investigation, Sota and MBI (and its producer Petrotub), domestic interested parties request that the Department determine that the margins from the investigation of seamless pipe from Romania are the margins to report to the ITC as the margins likely to prevail if the order were revoked. Based on the fact that dumping margins for Romania did not increase after the issuance of the order for these companies, and dumping margins have not declined over the life of the order while imports remained steady or increased for these companies, the Department will report to the ITC the same margins from the investigation for these companies, as listed in the Final Results of Reviews section below.

Final Results of Reviews

As a result of these reviews, the Department determines that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<u>Czech Republic</u>	
Nova Hut, A.S.	39.93
All Others	32.26
<u>Japan</u>	
Nippon Steel Corporation	106.07
Kawasaki Steel Corporation	106.07
Sumitomo Metal Industries, Ltd.	106.07
All Others	70.43
<u>Romania</u>	
Metal Business International S.R.L.	11.08
S.C. Petrotub S.A.	11.08
S.C. Silcotub S.A.	15.15
Sota Communication Company	15.15
All Others	13.06
<u>South Africa</u>	
Iscor Ltd.	43.51
All Others	40.17

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these sunset reviews in the Federal Register.

AGREE_____

DISAGREE_____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date